

**Response under 37 C.F.R. § 1.116
Expedited Procedure
Examining Group 2425**

**PATENT
ATTORNEY DOCKET: 46884-5465**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Hiroya KOBAYASHI et al.) Confirmation No.: 9269
Application No.: 10/573,467) Group Art Unit: 2822
Filed: April 13, 2007) Examiner: Paul E. Patton
For: SEMICONDUCTOR DEVICE AND)
METHOD FOR MANUFACTURING)
THE SAME)

Commissioner for Patents
U.S. Patent and Trademark Office
Customer Window, Mail Stop AF
Alexandria, VA 22314

Sir:

**NOTICE OF APPEAL TO THE
BOARD OF PATENT APPEALS AND INTERFERENCES**

Applicants hereby appeal to the Board of Patent Appeals and Interferences from the decision of the Examiner dated December 9, 2008, finally rejecting claims 1-3.

1. Extension of Time

The proceedings herein are for a patent application and the provisions of 37 C.F.R. § 1.136(a) apply.

Applicant believes that no extension of time is required. However, this conditional petition is being made to provide for the possibility that Applicant has inadvertently overlooked the need for a petition and fee for extension of time.

Applicants request an extension of time, the fees for which are set out in 37 C.F.R. § 1.17(a), for the total number of months checked below:

<u>Total Months Requested</u>	<u>Fee for Extension</u>	<u>[Fee for Small Entity]</u>
<input type="checkbox"/> One month	\$ 130.00	\$ 65.00
<input type="checkbox"/> Two months	\$ 490.00	\$ 245.00
<input checked="" type="checkbox"/> Three months	\$ 1,110.00	\$ 555.00
<input type="checkbox"/> Four months	\$ 1,730.00	\$ 865.00

An extension for two months has already been secured on May 8, 2009 and the fee paid therefore of \$ 490.00 is deducted from the total fee due for the total months of extension now requested. Accordingly, the extension of time fee due with this request is: **\$620.00** (\$1,110 - \$490).

If an additional extension of time is required, please consider this a Petition therefore.

2. Notice of Appeal Fee – 37 C.F.R. § 41.20(b)(1)

The fee in the amount of \$ 540.00 to cover the Notice of Appeal fee is to be charged to a credit card. **WARNING: Information on this form may become public. Credit card information should not be included on this form.**

The Commissioner is authorized to charge the Notice of Appeal fee of \$500.00 to Deposit Account No. 50-0573.

3. Fee Payment

A fee in the amount of \$ 1,160.00 for the 3-month extension of time fee and Notice of Appeal fee is to be charged to a credit card. **WARNING: Information on this form may become public. Credit card information should not be included on this form.**

The Commissioner is authorized to charge Deposit Account No. 50-0573 in the amount of _____ for the Notice of Appeal fee.

4. Constructive Petition

EXCEPT for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0573. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Respectfully submitted,

DRINKER, BIDDLE & REATH LLP



Dated: June 9, 2009

By:

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